

1 SHEPPARD MULLIN RICHTER & HAMPTON, LLP
2 JAMES M. CHADWICK, ESQ. (#157114)
3 4 Embarcadero Center, 17th Floor
4 San Francisco, California 9411-4106
5 Telephone: (415) 434-9100
6 Facsimile: (415) 434-3947
7 Email: jchadwick@sheppardmullin.com

E-filed 12/12/07

8 Attorneys for Plaintiff, HORTA, LLC

9 RICHARD DOYLE, City Attorney (#88625)
10 NORA FRIMANN, Chief Trial Attorney (#93249)
11 JOSEPH P. DICIUCCIO, Sr. Deputy City Attorney (#56885)
12 Office of the City Attorney
13 200 East Santa Clara Street
14 San Jose, California 95113-1905
15 Telephone: (408) 535-1900
16 Facsimile: (408) 998-3131
17 Email: cao.main@sanjoseca.gov

18 Attorneys for Defendant, CITY OF SAN JOSE

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 SAN JOSE DIVISION

22 HORTA, LLC, a Delaware limited liability
23 company,

24 Plaintiff,

25 v.

26 CITY OF SAN JOSE, a municipal
27 corporation,

28 Defendant.

CASE NO. C02-04086 JF (RS)

[Related Case Nos. C00-20018 JF
and C05-03778JF]

**STIPULATION AND [PROPOSED]
ORDER REGARDING MOTION FOR
ATTORNEY'S FEES**

Date: January 4, 2008
Time: 9:00 A.M.
Courtroom: 3
Judge: Hon. Jeremy Fogel

STIPULATION

29 WHEREAS, Plaintiff Horta, LLC (hereinafter "Horta") has filed an amended motion for
30 attorney's fees herein;

31 WHEREAS, the motion is set to be heard on January 4, 2008, and pursuant to the
32 local rules, the City's written response to the motion would be due on December 14, 2007;

1 WHEREAS, in order to properly respond to the motion, the City arranged for expert
2 review of the fee motion and billings;

3 WHEREAS, the retained expert was unexpectedly compelled to withdraw from the
4 assignment on December 5, 2007, and the City has not yet been able to retain other expert
5 services;

6 WHEREAS, the City will not be able to complete retention and review prior to
7 December 14, 2007.

8 The parties hereto agree that:

- 9 (1) The hearing on the Motion to for Attorney's Fees should be continued to
10 February 1, 2008;
- 11 (2) The City's written opposition to said motion shall be due on January 11, 2008;
- 12 (3) Horta's reply shall be due on January 18, 2008, provided that, if Horta wishes
13 to depose any City expert retained to review the motion and attorney's fee
14 billings or requires additional time to respond to the City's opposition, City will
15 agree to said deposition(s) and to a reasonable continuance of the briefing and
16 hearing dates;
- 17 (4) Should Horta submit expert testimony in connection with its reply, Horta will
18 agree to deposition(s) of its expert(s) and to a reasonable continuance of the
19 hearing date; and
- 20 (5) Should City depose expert(s) submitted by Horta, City shall be entitled to
21 submit a written Surreply limited to responding to the expert testimony
22 submitted on behalf of Horta, and Horta shall be entitled to submit a written
23 response to the City's Surreply.

24 //

25 //

26 //

27 //

28 //

1 Dated: December 7, 2007

SHEPPARD MULLIN RICHTER & HAMPTON LLP

2
3 By: 

JAMES CHADWICK, Esq.
Attorneys for Plaintiff HORTA, LLC

4
5
6 Dated: December 7, 2007

RICHARD DOYLE, City Attorney

7
8 By: 

NORA FRIMANN, Chief Trial Attorney
JOSEPH DiCIUCCIO, Sr. Dep. City Atty
Attorneys for Defendant, CITY OF SAN JOSE

9
10
11
12
13 **ORDER**

14 Pursuant to the stipulation, and good cause appearing therefore, IT IS SO

15 ORDERED.

- 16 (1) The hearing on the Motion for Attorney's Fees should be continued to February
17 1, 2008;
- 18 (2) The parties shall inform the Court if a settlement of the attorney's fees issue is
19 reached prior to the hearing date; and
- 20 (3) The parties shall inform the Court if any further continuance of the hearing or
21 briefing dates is required.

22
23 Dated: December 12, 2007


HON. JEREMY FOGEL
United States District Court Judge